

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

DIVX, LLC,

Plaintiff,

v.

LG ELECTRONICS INC.; LG
ELECTRONICS U.S.A., INC., and REALTEK
SEMICONDUCTOR CORP.,

Defendant.

C.A. No. 20-cv-1202-CFC-JLH

**DECLARATION OF THEODORE ANGELIS IN
SUPPORT OF DEFENDANT REALTEK SEMICONDUCTOR CORP.'S
OPPOSITION TO PLAINTIFF'S MOTION TO STAY PENDING FINAL
DETERMINATION BY THE ITC OF INVESTIGATION NO. 337-TA-1222**

I, Theodore Angelis, declare as follows:

1. On November 17, 2020, I sent a detailed, six-page letter to counsel for Plaintiff DivX LLC ("DivX") outlining many of the reasons DivX's allegations against Realtek are baseless and frivolous.

2. DivX's counsel responded on November 24, 2020. Copies of those letters will be provided to the Court if DivX does not dismiss its claims in response to the Rule 11 motion Realtek served on March 7. Realtek's Rule 11 motion will seek, among other remedies, dismissal of the complaint and recovery of attorneys' fees.

3. On February 23, 2021, DivX informed Realtek that “DivX intends on filing a motion to terminate the Investigation-in-part” with respect to all claims in the ’297 patent and the ’141 patent. Realtek responded by saying: “Realtek does not oppose termination of all asserted claims from the ’141 and ’297 patents against Realtek,” but Realtek noted that its non-opposition “is without prejudice to requesting relief under Commission Rules 210.4 and 210.25,” which are the ITC’s rules analogous to Rule 11. A true and correct copy of those emails is attached hereto as **Exhibit 1**.

4. On February 24, 2021, DivX informed Administrative Law Judge McNamara, by letter pleading, of what is had said in its email: DivX is “imminently moving to terminate with respect to two asserted patents for Respondent Realtek.”

5. Fact discovery in the ITC Investigation is virtually complete. Fact discovery was originally scheduled to close on March 5, 2021. A true and correct copy of the original schedule for the Investigation, which shows that date, is attached hereto as **Exhibit 2**.

6. Certain dates in the original schedule for the ITC Investigation have been modified. One of those dates is the close of fact discovery. In particular, Administrative Law Judge McNamara continued the close of fact discovery to March 26, 2021. A true and correct copy of the order extending the fact discovery cutoff is attached hereto as **Exhibit 3**.

7. On March 19, 2021, DivX sent an email, which stated in the subject line: “Notice of Motion for Partial Termination Pursuant to Order No 39.” In that email, DivX informed Realtek that—pursuant to the ALJ’s order requiring narrowing of the ITC investigation—DivX intends to seek termination of all claims asserted under the ’749 patent, namely “claims 1-9 of the ’749 Patent.” A true and correct copy of DivX’s email is attached hereto as **Exhibit 4**.

8. On March 17, 2021, DivX sent an email asking Realtek to confirm that “DivX may use CBI produced by Realtek in connection with the proceedings of the district court action *DivX, LLC v. LG Elecs. Inc., LG Elecs. U.S.A., Inc., and Realtek Semiconductor Corp.*, Case No. 20-cv-1202 (D. Del.).” Realtek responded, in relevant part: “We confirm that DivX may use, in the District Court action, the Realtek-authored documents that Realtek produced in the ITC, so long as all documents marked CBI are designated as OUTSIDE ATTORNEYS ONLY and DivX seeks to file them under seal.” A true and correct copy of the emails is attached hereto as **Exhibit 5**.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

/s/ Theodore J. Angelis

Theodore J. Angelis